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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 RACHEL CAROL FILSOOF,

4 Plaintiff,

New York, N.Y.

5 v.

21 Civ. 1791 (NRB)

6 ANDREW J. COLE,

7 Defendant.

8 -----x

Remote Conference

9 April 6, 2021
10 11:00 a.m.

11 Before:

12 HON. NAOMI REICE BUCHWALD,

13 District Judge

14 APPEARANCES

15
16 THE BOSTANY LAW FIRM, PLLC
Attorneys for Plaintiff
17 BY: JOHN P. BOSTANY
SAMANTHA B. WELBORNE
18

19 ANDREW J. COLE
20 Pro Se Defendant

21
22 Also Present:
23 Rachel Carol Filsoof
24
25

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1 THE COURT: Good morning. It is Judge Buchwald
2 speaking. Let's start by taking attendance.

3 Who is on the phone for the plaintiff?

4 MR. BOSTANY: Good morning, Judge Buchwald. It's John
5 Bostany, attorney for plaintiff, along with Samantha Welborne,
6 also attorney for the plaintiff, from my office. And the
7 plaintiff herself, Rachel Carol Filsoof, is on the line as
8 well.

9 THE COURT: Okay.

10 All right. Mr. Cole, are you on the phone?

11 MR. COLE: Yes, your Honor.

12 THE COURT: Mr. Cole, do you have a lawyer with you?

13 MR. COLE: No, I don't, your Honor. I wanted to
14 request some time to find counsel. I only learned about this
15 about a week ago when I returned back home, and I have been
16 trying to find counsel --

17 THE COURT: Okay.

18 MR. COLE: -- in New York.

19 THE COURT: Okay. Are you in California now?

20 MR. COLE: Yes, your Honor.

21 THE COURT: Okay. Is there a court reporter on the
22 phone.

23 THE COURT REPORTER: Good morning, Judge. Kristen
24 Carannante.

25 THE COURT: There is one -- if my math is right, we

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1 need to account for one other person. Who else is on the
2 phone, please?

3 MS. GINIGER: Hi, Judge. This is Eve Giniger. I'm a
4 court reporter just sitting in with Kristen to check my
5 equipment. I'm sorry.

6 THE COURT: Oh, okay. Fine. Thank you. That's fine.
7 Of course. The more the merrier.

8 MS. GINIGER: Thank you.

9 THE COURT: Okay. Mr. Cole, let me just ask you a
10 couple of questions.

11 First, you had contact, I believe, communication with
12 Mr. Bostany. Is that correct?

13 MR. COLE: Yes, your Honor.

14 THE COURT: And he has furnished to you the complaint
15 in this case and the earlier order that I signed setting up
16 this conference, is that correct?

17 MR. COLE: Yes, sir. I believe I got that on Friday.

18 THE COURT: And did Mr. Bostany give you a copy of the
19 preliminary injunction document that he wants me to sign today?

20 Mr. Bostany, did you give Mr. Cole the proposed --

21 MR. BOSTANY: Your Honor, I was directed by your
22 Honor's March 12 order to serve Mr. Cole with the language of
23 the order that was contained in the order to show cause as well
24 as all supporting documents and, as the docket entries show,
25 Samantha Welborne, my co-counsel that's on the phone, served

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1 Mr. Cole with both the form -- well, not the form order, but
2 the language of the form order, which is contained in the order
3 to show cause, as well as all supporting documents on March 18,
4 via e-mail, to a_j_cole@mac.com, which documents were also
5 delivered by hand to Mr. Cole's California physical address, in
6 Pacific Palisades, California, on Aloha Drive, and I wanted to
7 make sure that those both -- the e-mail address that he
8 confirmed to me, as well as the investigator, Mr. O'Sullivan,
9 is correct.

10 THE COURT: Do you want to do that now?

11 MR. BOSTANY: If it would be okay.

12 THE COURT: It would be okay.

13 Mr. Cole, we just need to be able to reach you, and
14 that is not only for the benefit of the plaintiff, but it's for
15 your benefit as well, as well as my benefit, because I want --
16 and the Court's benefit, because I want to be sure that, with
17 and without a lawyer, you are kept fully informed of everything
18 that is going on, so you should know that nothing of any
19 significance goes on behind your back. Okay?

20 MR. COLE: Yes, your Honor. I would really like to
21 get a lawyer, because I'm having trouble understanding a lot of
22 the language being used.

23 One thing I can say is that, when I went home the
24 other day to find the paperwork, there was no name or address
25 or anything written on a brown paper bag that was delivered to

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1 my current residence.

2 THE COURT: Just to be clear, the name of the lawyer
3 and the lawyer's address was part of the papers, correct?

4 MR. COLE: Yes, your Honor.

5 THE COURT: Okay. So just -- and I will try to speak
6 in simple English, but I don't think I have been using very
7 fancy words today.

8 MR. COLE: No.

9 THE COURT: But let me just ask you to tell me what is
10 your home address.

11 MR. COLE: It is 27 Aloha Drive, Pacific Palisades,
12 California.

13 THE COURT: Sounds nice. And the zip code?

14 MR. COLE: 90272.

15 THE COURT: Fine. And your e-mail address is what?

16 MR. COLE: A_j_cole@mac.com.

17 THE COURT: Okay. All right. As I said, Mr. Cole, we
18 would, I think all be actually delighted if you found a lawyer
19 and that lawyer entered a notice of appearance. Because,
20 frankly, it is more comfortable and easier for the Court and
21 Mr. Bostany to deal with a lawyer rather than directly with
22 you. So --

23 MR. BOSTANY: Your Honor, one more thing. Mr. Cole
24 had requested sort of an extension of time to answer. The time
25 to answer, according to the docket sheet, is upon us, and the

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1 summons and complaint was delivered to him while he was at the
2 First Police Precinct, in New York, as well as at his home, as
3 well as by e-mail, and he confirmed to me on April 2 that he
4 had the summons and complaint and was reading it to me, as I
5 mentioned in my letter.

6 But I have no objection to any extension that --
7 reasonable extension, obviously, that the Court would order.

8 THE COURT: Okay.

9 Well, Mr. Cole, here is what I propose. It would be
10 my intention to enter the preliminary injunction today, that
11 is, the order that -- and I will just, for the record, let me
12 read it to you. It says:

13 "Ordered:

14 "That defendant, Andrew J. Cole, his agents, and all
15 persons in active concert, privity, and/or participation with
16 him, are hereby enjoined and restrained, pursuant to Federal
17 Rule of Civil Procedure 65, pending the final hearing and
18 determination of this action, from:

19 "1. Contacting, following, surveilling, assaulting,
20 threatening, intimidating, stalking, harassing, keeping under
21 surveillance, or coming within 200 yards of the home or any
22 place of residence of plaintiff Rachel Carol Filsoof;

23 "2. Interfering with plaintiff's prospective business
24 relations by making disparaging comments, remarks, or
25 statements concerning plaintiff, by phone, electronically, or

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1 in person, to any individual, entity, or association that
2 defendant knows, or becomes aware of, is a business contact of
3 the plaintiff and/or is likely to enter a business transaction
4 with the plaintiff."

5 The order further will provide for service upon you.

6 That is what you are enjoined -- "enjoined" means
7 prevented -- from doing.

8 If you violate the order, there are a variety of
9 consequences to you, the most serious of which would be that
10 you could be held in contempt of court. Being held in contempt
11 of court, and if you are convicted of that contempt, can result
12 in your going to jail.

13 Now, you know and I know that you are under a court
14 order in California and a court order in New York to stay away
15 from Ms. Filsoof. My wish -- any lawyer would tell you, don't
16 violate these orders for your own good. The consequences to
17 you are potentially extremely serious.

18 So let us -- do you have any questions about the
19 meaning of the order that I just read to you?

20 MR. COLE: No, your Honor.

21 THE COURT: Okay. Let us give you three weeks to find
22 a lawyer. Let us extend your time to answer the complaint
23 until 30 days from today.

24 The order will be signed today and until it is -- I
25 change it, those are the rules of the game for you.

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1 Do you understand that?

2 MR. COLE: Yes, your Honor.

3 THE COURT: Okay.

4 So when you get a lawyer, make sure that he contacts
5 Mr. Bostany and also files a notice of appearance so that I can
6 know that he is on the scene; and if there is some issue,
7 continuing issue with your getting a lawyer, you need to let me
8 know. Okay?

9 MR. COLE: Yes, your Honor.

10 THE COURT: All right.

11 Dylan, there is another question of the best way for
12 Mr. Cole, if he needs to contact us, to do so. By the chambers
13 inbox?

14 THE LAW CLERK: Yes.

15 So, Mr. Cole, the best way to be able to contact our
16 chambers, should you need to reach us, is an e-mail address.
17 If you have a pen, I can give it to you. It is
18 BuchwaldNysdChambers@nysd.uscourts.gov.

19 MR. COLE: Okay.

20 THE COURT: Actually --

21 MR. COLE: May I read that back to you so I can --

22 THE COURT: Just one second.

23 Dylan, can we send Mr. Cole an e-mail from that
24 address or is it just an inbox?

25 THE LAW CLERK: I can do that right now.

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1 MR. BOSTANY: That's what I was going to suggest.

2 THE COURT: We will do that Mr. Cole then you won't
3 have any question.

4 MR. COLE: Okay.

5 MR. BOSTANY: I also am right now sending Mr. Cole a
6 copy of your Honor's individual practice rules, if that's okay.

7 THE COURT: That's okay.

8 MR. BOSTANY: Okay. Sent.

9 Judge, I had one more matter.

10 THE COURT: Sure.

11 MR. BOSTANY: I had requested a date for a Rule 26(f)
12 conference with Mr. Cole. Considering that it is possible that
13 he will be *pro se*, we don't know right now, he has got three
14 weeks now to retain counsel, I would not obviously be pressing
15 that that date be before the three weeks expires, but if we can
16 get some date maybe in May that it will be held with or without
17 his attorney, that would be helpful.

18 THE COURT: Why don't we wait and let him get a
19 lawyer. I think he understands -- I hope he does -- that,
20 given the combination of this civil issue, civil case and his
21 criminal matters, that it's really important that he have
22 counsel.

23 MR. BOSTANY: Yes, Judge.

24 THE COURT: So I assume that he is really going to get
25 a lawyer.

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1 MR. BOSTANY: Understood, Judge.

2 THE COURT: And once he does, it's going to be a lot
3 easier for you, Mr. Bostany, and for me to move this case
4 forward. I think you have been in front of me before -- and,
5 Mr. Cole, I should say, we are not friends, but I have been on
6 the bench for a very long time, so Mr. Bostany has appeared in
7 front of me. I think it is well known I am very attentive to
8 my cases.

9 MR. BOSTANY: Yes. It is well known in the
10 courthouse.

11 THE COURT: Right. So I'm not going to forget this.
12 So don't worry about that. We have our own tickler systems,
13 and I can assure you that there is going to be a tickler for
14 three weeks from today. And if there is no -- you know, no
15 lawyer has filed an appearance, we will take appropriate steps
16 at that point. Okay?

17 MR. BOSTANY: Very good, Judge. Yes.

18 THE COURT: All right. Mr. Cole, behave yourself and
19 get a lawyer, okay?

20 MR. COLE: Yes, sir. Yes, your Honor. Thank you.

21 THE COURT: Very good. Thank you. Bye.

22 MR. BOSTANY: Goodbye, everybody. Thank you.

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